

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 35 - SB 64**

February 15, 2011

**SUMMARY OF BILL:** Prohibits prosecution of minors under the age of 18 for prostitution and places these juveniles into the custody of the Department of Children's Services (DCS) for sexual abuse treatment. Makes the penalty for patronizing prostitution of a minor or an individual who is mentally handicapped a Class E felony. Makes the penalty for promoting prostitution of a minor or an individual who is mentally handicapped a Class D felony. Establishes procedures for towing and impounding offenders' vehicles.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$5,923,200**  
**\$21,800/Incarceration\***

**Increase Federal Expenditures - \$3,842,800**

**Assumptions:**

- According to the Department of Children's Services, an additional 115 juveniles will come into state custody.
- The average cost per juvenile per day is \$340.
- The average stay will be 240 days per juvenile resulting in a total of 27,600 days (240 x 115).
- The increase in expenditures for housing and treatment of these juveniles will be approximately \$9,384,000 (27,600 days x \$340). Of this amount, approximately 49 percent (\$4,598,160) will be TennCare funds.
- Of the TennCare funds, approximately \$3,045,361 will be federal funds at a 66.23 percent match rate and approximately \$1,552,799 will be state funds (\$4,598,160 - \$3,045,361).
- Approximately seven percent of the total cost, or \$656,880 (\$9,384,000 x 7%), will be new Title IV-E expenditures.
- The remaining \$4,128,960 (\$9,384,000 - (\$4,598,160 TennCare + \$656,880 Title IV-E)) will be state funded.
- The total increase in state funding for housing and treatment will be approximately \$5,681,759 (\$4,128,960 + \$1,552,799). The total increase in federal expenditures will be approximately \$3,702,241 (\$3,045,361 + \$656,880).

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- DCS will hire five additional case managers at a recurring cost of \$62,752 with salary (\$34,400), benefits (\$13,352), and other equipment (\$15,000); the total recurring increase to state expenditures is estimated to be \$313,765 ( $\$62,753 \times 5$ ).
- One additional team leader will be required at a recurring cost of \$68,268 with salary (\$38,900) benefits (14,368), and other equipment (\$15,000).
- The total recurring increase to state expenditures for the six new positions is estimated to be \$382,033 ( $\$313,765 + \$68,268$ ).
- Of the \$382,033, 45 percent (\$171,915) will be TennCare funds. Of the TennCare funds, approximately \$113,859 will be federal funds at a 66.23 percent match rate, and approximately \$58,056 ( $\$171,915 - \$113,859$ ) will be state funds.
- Approximately seven percent of the total cost, or \$26,742 ( $\$382,033 \times 7\%$ ), will be new Title IV-E revenue.
- The remaining \$183,376 ( $\$382,033 - (\$171,915 \text{ TennCare} + \$26,742 \text{ Title IV-E})$ ) will be state funded.
- Total increase in state funding for new personnel will be \$241,432 ( $\$58,056 + \$183,376$ ). The total increase in federal funding will be \$140,601 ( $\$113,859 + \$26,742$ ).
- According to the Administrative Office of the Courts, there has been an average of nine convictions in each of the past five years for the misdemeanor offense of patronizing prostitution.
- According to the Tennessee Bureau of Investigation Crime in Tennessee 2009 report, there were 16 juveniles and 2,461 adults arrested for prostitution. The Department of Correction (DOC) assumes less than one percent (0.65% of the 2,461 adults arrested involved minors).
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years and 1.97 years for a Class D felony. The cost per offender for a Class E felony is \$28,119.80 (463.87 days  $\times$  \$60.62) and \$43,618.51 (719.54 days  $\times$  \$60.62) for a Class D felony.
- DOC estimates one additional offender every two years will be convicted for a Class D felony rather than a Class E felony for promoting prostitution of a minor and will serve an additional 0.7 years (an increase from 1.27 to 1.97 years) at a cost of \$15,498.71 ( $\$43,618.51 - \$28,119.80$ ). The annualized time served per conviction is 127.84 days [0.50 annual number of convictions  $\times$  (719.54 days – 463.87 days)]. The annualized cost per conviction is \$7,749.66 ( $\$60.62 \times 127.84$  days).
- DOC estimates one additional Class E felony every two years will be convicted of a Class E felony rather than a misdemeanor for patronizing prostitution of a person who is younger than 18 years of age or is mentally defective. The annualized time served per conviction is 231.94 days (0.50 annual number of convictions  $\times$  463.87 days). The annualized cost per conviction is \$14,060.20 ( $\$60.62 \times 231.94$  days).
- The total additional operating cost is \$21,809.86 ( $\$7,749.66 + \$14,060.20$ ).
- No additional operating cost as a result of population growth in this period.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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